

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

MDL No. 2323
Case No. 18-md-2323-AB

Kevin Turner and Shawn Wooden,
*on behalf of themselves and others
similarly situated,*

Civil Action No. 14-cv-00029-AB

Plaintiffs,

v.

National Football League and NFL
Properties LLC, successor-in-interest
to NFL Properties, Inc.

Defendants.

THIS DOCUMENT RELATES TO:

ALL ACTIONS

DECLARATION OF CHARLES S. ZIMMERMAN IN RESPONSE TO
MARCH 28, 2018 ORDER

I, Charles S. Zimmerman, am a partner at the law firm Zimmerman Reed LLP and serve on the Plaintiff's Steering Committee. I have personal knowledge of the facts stated in this declaration and, if called upon to do so, could and would competently testify thereto. Zimmerman Reed appreciates the efforts of the Court to protect players against third party litigation funders, especially those who are paired with attorneys using pre-

settlement loans as a bargaining chip to solicit former NFL players as clients. Those unscrupulous attorneys have used third party litigation funders to poach clients from other firms, including Zimmerman Reed. In fact, Zimmerman Reed was one of the first to raise concerns to Co-Lead Class Counsel about unconscionable pre-Settlement advanced loans and purported assignments and because of those efforts, I was later appointed to serve as the Co-Chair of the PSC Ethics Committee.¹

I submit this declaration in response to the Court's Order dated March 28, 2018 ("Order"), ECF 9833, and answer the Court's questions in the numerical order presented in the Order as follows:

1. Zimmerman Reed has represented 437 former NFL players with the first representation beginning on August 11, 2011, well before the formation of the MDL. Of these 437 players, 77 have retained other counsel or decided to pursue their claims without counsel. Other law firms poached the overwhelming majority of these 77 players after the action settled. At this time Zimmerman Reed represents 360 former NFL players.

2. Zimmerman Reed represents:²

A. Five (5) clients to date who have received a Monetary Award;

B. Eight (8) clients to date who have been informed that they are entitled to receive a Monetary Award, but have not yet received their award;

¹ See Counter-Decl. of Charles S. Zimmerman in Resp. to Proposed Allocation of Common Benefit Attorney's Fees, at ¶¶ 7-10, Oct. 27, 2017, ECF 8722.

² The answers to question 2(A)-2(D) pertain only to current Zimmerman Reed clients.

C. Thirty (30) clients who have applied for a Monetary Award but have not received a Notice of Monetary Award; and,

D. The remainder of Zimmerman Reed's clients are eligible to receive a Monetary Award during the pendency of the Settlement if they develop a Qualifying Diagnosis, and, of those clients, Zimmerman Reed believes at least nine (9) are currently eligible for a Monetary Award but have not yet submitted a Claim.

3. Zimmerman Reed is aware of one (1) current client ("Client A") and one (1) former client ("Former Client B") who entered into assignments of their Monetary Awards. An additional former client ("Former Client C") informed Zimmerman Reed that he obtained a pre-Settlement loan but we have no documentary evidence of an assignment. Client A and Former Client B obtained a pre-settlement loan due to extraordinary circumstances, as explained in ¶5. Former Client C took out a pre-settlement loan without Zimmerman Reed's knowledge and terminated Zimmerman Reed shortly thereafter. Zimmerman Reed first learned of the loan during a phone call with Former Client C shortly before he terminated Zimmerman Reed.

4. Client A identified in ¶3 applied for a Monetary Award but has not received a Notice of Monetary Award. Former Client B identified in ¶3 has been approved for a Monetary Award. Zimmerman Reed has no information regarding the status or submission of Former Client C's claim because Zimmerman Reed did not submit a claim on behalf of Former Client C and has no knowledge of whether Former Client C submitted a claim after terminating Zimmerman Reed.

5. If Client A submits a Claim and obtains a Monetary Award, Zimmerman Reed is obligated to pay a third party funder a portion of Client A's award pursuant to the agreement between Client A and the third party funder.

6. Zimmerman Reed discourages clients from obtaining litigation loans or assignments of their awards, and does not promote any third party litigation funder. If any client expresses interest in or need for obtaining a pre-Settlement loan, Zimmerman Reed explains the significant and potentially detrimental consequences of entering into such an assignment and advises clients of the uncertainty of obtaining a Monetary Award and the potential length of time before receipt of any Award. Zimmerman Reed strongly advises clients not to enter into such agreements, but explains it is the client's decision. If a client decides to enter into a loan, Zimmerman Reed reviews the loan documentation and communicates with the third party lender at the client's direction and pursuant to the terms of any agreement. Specific to Client A and Former Clients B and C:

A. Client A pursued a pre-settlement loan without Zimmerman Reed's knowledge. Zimmerman Reed was not aware of the loan until Client A instructed Zimmerman Reed to sign an "Acknowledgment by Counsel" form sent by Ludus Capital. Zimmerman Reed contacted Client A about the loan and Client A said that he urgently required funds for a personal financial situation. Zimmerman Reed discussed with Client A the high rates of interest of his loan and the uncertainty of his potential award because, at that time, the Settlement had not yet been finally approved. However, Client A still directed Zimmerman Reed to sign the acknowledgment. At the time, Client A was under investigation by the federal

government and was later charged in a separate criminal matter, in which Zimmerman Reed did not represent Client A. Client A advised us that he required a second loan to further assist his legal defense fund, which Client A's defense attorneys confirmed. Zimmerman Reed, however, is not aware of whether Client A entered into a second loan.

B. Former Client B had recently been diagnosed with a terminal illness and was seeking funds for experimental treatment. Zimmerman Reed advised Former Client B of the risks and detrimental effects of a litigation loan; however, in spite of the risks, Former Client B elected to obtain a loan. Zimmerman Reed completed the forms to ensure Former Client B obtained funding.

C. Former Client C informed Zimmerman Reed during a phone call that he had obtained a pre-settlement loan with the help of Edward Stone – an attorney previously identified by Zimmerman Reed as potentially utilizing improper tactics to solicit former NFL players as clients in this case. Shortly thereafter, Former Client C terminated Zimmerman Reed without explanation.

D. Apart from Client A and Former Clients B and C, Zimmerman Reed has successfully dissuaded several of its clients from obtaining pre-settlement loans by explaining the disadvantageous terms of such loans. Zimmerman Reed dissuaded clients both before and after the Court's December 2017 Explanation and Order relating to Third Party Funders (ECF 9531).

7. No Zimmerman Reed attorney or other employee is associated with a third party litigation funder used by any former NFL player previously or currently represented by Zimmerman Reed or by any attorney associated with Zimmerman Reed.

8. Client A's assignment has not been resolved as of this date, and Zimmerman Reed does not know whether Former Client B's assignment or Former Client C's potential assignment has been resolved.

9. Attached as Exhibit A are all documents in our possession relating to Client A's loan.

10. Attached as Exhibit B are all documents in our possession relating to Former Client B's loan.

11. We are not in possession of any documentation related to Former Client C's potential loan.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: May 1, 2018

s/ Charles S. Zimmerman
Charles S. Zimmerman